The Director of Central Intelligence

Washington, D.C. 20505

9 August 1985

Dear Henry,

I appreciate your support in the Congressional Record of July 22, 1985 regarding provisions for strengthening the Intelligence Identities Protection Act.

Best regards.

Yours,

Bill

William J. Casey

The Honorable Henry J. Hyde
United States House of Representatives
Washington, D. C. 20515

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L-114

7 AUG 1985

FYI

HENRY J. HYDE
MEMBER OF CONGRESS
U. S. HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515
(202) 225-4561

Approved For Release 2010/01/05 : CIA-RDP87M00539R002003120007-4

STRENGTHENING THE INTELLIGENCE IDENTITIES PROTECTION ACT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 22, 1985

● Mr. HYDE. Mr. Speaker, the omnibus intelligence bill (H.R. 1082) introduced at the beginning of this Congress by Mr. STUMP, the ranking member of the House Permanent Select Committee on Intelligence, contains a number of provisions that deserve our immediate consideration in light of recent events.

For purposes of this discussion, I would like to focus on title VIII of this measure which would strengthen the Intelligence Identities Protection Act that became law several years ago.

Although this legislation was intended to deter the exposure of undercover intelligence personnel, it has not accomplished its objective to the degree envisioned at the time of enactment. To some extent, this is because some of the statute's original teeth were pulled as it worked its way through the legislative process.

Title VIII of Mr. STUMP's bill recognizes this problem as it mandates the termination of Federal annuity benefits of any Government employee convicted of disclosing the identity of U.S. undercover intelligence personnel. In addition, it also permits wiretaps in probes relating to the exposure of clandestine operatives.

Before going any further, I want to make it crystal clear that I believe that the overwhelming majority of our Government employees, as well as Federal annuitants, are very conscientious and patriotic citizens. They are, moreover, just as disturbed as I am about these unauthorized revelations which are so damaging to our national security. I am confident, therefore, that they would be among the first to applaud this remedial legislative proposal.

As Members will note, this Stump initiative is potentially very relevant to the spy case involving a CIA employee, Ms. Sharon M. Scranage, who has been charged with committing espionage with a Ghanian national, Mr. Michel Agbotui Soussoudis.

Among other things, the criminal complaint affidavits filed by the FBI state that Ms. Scranage provided Mr. Soussoudis handwritten lists containing the true names of individuals who were cooperating covertly with the CIA, and that Ms. Scranage met with Mr. Soussoudis and two Ghanian agents and discussed CIA assets and sources in Ghana and other locations.

Most certainly, I do not want to prejudge this case or comment on the FBI's allegations. I cite it, however, as an illustration of the kind of conduct title VIII is designed to address.

Mr. Speaker, in conclusion, I would like to call to my colleagues' attention a pertinent op-ed I wrote on the deficiencies of the identities protection law that appeared in Human Events last year.

INTELLIGENCE IDENTITIES ACT: WORDS, NO TEETH

(By Representative Henry J. Hyde)

As a member of Congress, I frequently witness legislative efforts that are long on symbolism but short on substance. Sometimes these efforts are so useless that they remind me of a baseball pitcher with the stylish windup of Hall of Famer Sandy Koufax but who forgot to pick up the ball!

A case in point is the Intelligence Identities Protection Act that Congress passed a couple of years ago. What triggered this nobly intended—but ineffective—initiative was a relentless stream of disclosures. Certain individuals, including turncoat U.S. intelligence officer Philip Agee, were busily and systematically disclosing the names of those clandestinely employed by the various U.S. intelligence agencies.

The CIA station chief in Athens was killed after his cover was blown by the magazine CounterSpy. Subsequently, in a near tragedy, the homes of the U.S. Embassy's first secretary in Jamaica and an AID employe were fired upon shortly after the American editor of Covert Action Information Bulletin claimed in a press conference that those U.S. officials and 13 other Americans, as well as Jamaicans, were associated with the CIA.

In this instance, not only were the names of these individuals revealed, but also their home addresses, telephone and auto license numbers. Fortunately, the American officials and families involved in this attack survived unscathed. It was a close call, however, as two of the bullets penetrated the bedroom window of one of the children who was providentially away at the time. Against this compelling backdrop, Congress finally attempted to remedy a situation that was seriously undermining human intelligence collection efforts around the world.

Lamentably, the legislation that eventually emerged was so watered down that it has not really accomplished its objective of deterring the exposure of undercover intelligence personnel.

After considerable debate, Congress determined that for a non-government individual to be convicted under this legislation, the government would have to prove that such a person had engaged in "a pattern of activities intended to identify and expose covert agents and with reason to believe that such activities would impair or impede the intelligence activities of the United States."

Clearly not covered by this legislative provision would be those journalists who, during the course of a story, casually mention the name of a covert intelligence operative. Particularly instructive in this regard is the conference report to the Indentities Protection Act which offers the following interpretation:

"A journalist writing stories about the CIA would not be engaged in the requisite 'pattern of activities,' even if the stories he wrote included the names of one or more covert agents, unless the government proved that there was an intent to identify and expose agents. To meet the standard of the bill, a discloser must be engaged in a purposeful enterprise of revealing identities—he must, in short, be in the business of 'naming names.'"

Armed with this congressional analysis and legislative history, many journalists have no qualms about dropping the name of an undercover agent in order to make a story a little "sexier" or seemingly more credible. For example, the Washington Post ran an article by correspondent John Lantigua in an early July 1984 edition that issustrates my point.

The thrust of the story concerned an American citizen waiting to be tried in Nicaragua for espionage. Among other things, Lantigua reported that this individual declared that he sold intelligence information to a U.S. diplomat whom Lantigua named and claimed an unnamed former U.S. State Department official had revealed as having been employed by the CIA.

In my opinion, such a titillating disclosure violates the spirit, if not the letter, of the Identities Protection Act.

(Incidentally, it is interesting and ironical to note that Lantigua took pains to protect the anonymity of his ex-State Department source while having no compunction whatsoever about revealing the alleged CIA ties of a U.S. Embassy employe who may have been falsely identified as can be the case in leaks of this nature.)

These actions point up that, from an intelligence standpoint, the random or isolated disclosure by an individual journalist can be just as deleterious as the wholesale revelations that used to be featured in the Covert Action Information Bulletin.

In fairness to the Washington Post, it must be mentioned that it is not alone in allowing the publication of reports with damaging revelations regarding those under cover. As Jay Peterzell indicates in the May/June 1984 edition of First Principles: National Security and Civil Liberties, such prestigious and reputable news organs as the New York Times and the Wall Street Journal have also published—since the passage of the identities protection legislation—similar stories in the apparent belief that they would not be "exposed to the prosecution under the Identities Act as now interpreted, even though many of these disclosures appear to have embarrassed the U.S. government or to have interfered with ongoing intelligence activities."

Elsewhere in the same article, Peterzell insightfully observes that "perhaps the most significant effect of the conference report on the legislation is to resolve the doubts of reporters and others about the intended scope of the identities act. Lawyers for the Washington Post and the Christian Science Monitor said the report had convinced them the Act is not meant to apply to reporters who identify an agent in the context of a news story."

In sum, the Intelligence Identities Protection Act has turned out to be largely symbolic legislation.

I will concede that it does appear to have caused the Covert Action Information Bulletin to stop publishing its "Naming Names" column, but even this notorious journal has dared to reveal occasionally the identity of individuals within the context of a story.

Again, Peterzell is informative as he points out that the Bulletin's editor, Louis Wolf, has stated that "on several occasions, we have published articles that discuss CIA activities and identified people when it was important to the story. We got legal advice and went ahead."

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Short of remedial legislation, my only and fervent hope, therefore, is that responsible, professional journalists will emulate the recent example of the Christian Science Monitor which decided, according to Peterzell, not to reveal a name "for moral rather than legal reasons."

This is indeed a transcendant reason and such restraint could literally mean the difference between life and death for some dedicated employe of this nation's intelligence community.●